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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Harry Mussman

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09/20/2006

FAEGRE & BENSON LLP  
PATENT DOCKETING  
2200 WELLS FARGO CENTER  
90 SOUTH SEVENTH STREET  
MINNEAPOLIS, MN 55402

EXAMINER

ELALLAM, AHMED

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/629,517	<b>Applicant(s)</b> MUSSMAN ET AL.	
	<b>Examiner</b> AHMED ELALLAM	<b>Art Unit</b> 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-35 and 37-42 is/are allowed.
- 6) ☒ Claim(s) 1-19 and 43 is/are rejected.
- 7) ☒ Claim(s) 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This office action is responsive to the petition for revival and accompanying RCE both filed on 3/31/2006. The petition has been approved and the RCE has been entered.

### ***Claim Objections***

1. Claim 36 is objected to because of the following informalities:

In claim 36, reference is made to a second call mediator in line 2, however in line 4, reference is made to "a call mediator". It is not clear if the claimed "a call mediator" is the same as the second call mediator or not, since the "a call mediator" and the second call mediator are associated with the same "network address" a distinction should be made to whether the second call mediator is different than or the same as the other call mediator.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 9-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al, US 2003/0095542.

Art Unit: 2616

Regarding claim 1, Chang discloses a computerized method for performing alternate routing of communications in a network, the method comprising:

initiating a communication from PC-based telephone, see paragraph [0026] to a destination telephone, see paragraph [0206] (Claimed initiating a communication from an origination endpoint in a packet-switched network to a destination endpoint),

Chang also discloses having an Enterprise telephone numbering (ETN) (claimed private dialing plan PDP) along with an access code that specify a respective site within the enterprise (Claimed CSID), wherein telephones at other sites in the company may be dialed using an access code, commonly an "8", followed by a location code (typically 3 digits), followed by the extension, see paragraphs [0146]-[0148], (Claimed origination endpoint and the destination endpoint are located at different sites, and are associated with a private dialing plan (PDP) number identified in the communication, appending to the PDP number a customer-specific identifier (CSID) that uniquely identifies one of the sites),

Chang further discloses providing the capability to fallback to PST NETWORK during a VoIP call, the gateway server provides the capability to fallback to the PST NETWORK during setup of a call if the call cannot be connected through a called gateway server, see paragraph [0206] (the call comprising the site extension as indicated above). (Claimed determining, according to selection criteria, whether to route the communication to the destination endpoint using at least a second circuit-switched network, and routing the communication to the destination endpoint via the second circuit-switched network based on the CSID).

Regarding claim 2, Chang discloses the initiated call is a VoIP call see paragraph [0206].

Regarding claims 3 and 4, Chang discloses initiating a communication from PC-based telephone, see paragraph [0026]. (Claimed initiating a communication comprises initiating a communication from a VoIP endpoint as in claim 3 and the claimed initiating a communication from an origination endpoint in a packet-switched network comprises initiating a communication from an origination endpoint in a VoIP network, as in claim 4).

Regarding claim 5, Chang discloses forwarding a call to a PC-based IP Telephones, see paragraph [0025], and a destination telephone is an H.323 telephone, see paragraph [0097]. (Claimed initiating a communication to a destination endpoint comprises initiating a communication to a VoIP endpoint).

Regarding claim 6, Chang discloses a destination telephone being a PSTN telephone, see paragraph [0186]. (Claimed initiating a communication to a destination endpoint comprises initiating a communication to a PSTN endpoint

Regarding claim 7, Chang discloses the “fall back” to the PST network is based on the packet network congestion, see paragraph [0046]. (Claimed determining comprises determining according to available bandwidth criteria).

Regarding claims 9, 10, Chang discloses the fallback to PST network (PSTN) during a call depend on the configuration of the particular caller gateway network, e.g. PBX configuration and capability, CTI capabilities, additional hardware availability and voice channel capacity, see paragraph [0206]. (Claimed determining comprises

Art Unit: 2616

determining according to network resource availability criteria, as in claim 9, and network resource availability criteria comprises determining according to the availability of a network component, as in claim 10).

Regarding claim 11, as indicated above with regard to claim 7, Chang discloses fallback to the PSTN if the IP network is congested. (Examiner interpreted this feature of IP congestion to read on the claimed *determining according to the availability of a network component comprises determining according to the availability of a network endpoint*, because the destination telephone or gateway (endpoint) of Chang cannot be reached over the IP network due to congestion, and thus can be regarded as unavailable).

Regarding claim 12, Chang discloses sending a request for address translation to a gateway gatekeeper, the gateway gatekeeper references tables in a gateway database to determine the called gateway server (Claimed network endpoint) and its IP address. See paragraphs [0098] and [0165]. (Claimed determining according to the availability of a network endpoint comprises: sending, to a gatekeeper, an admission request containing a network address associated with the network endpoint; wherein the gatekeeper is programmed to determine whether the network address associated with the network endpoint is a member of a set of available network addresses).

Regarding claim 13, Chang discloses a called PBX (claimed call mediator) wherein the PBX is determined based on the called gateway server, see paragraph [0165]. (Examiner interpreted the call mediator in accordance with the specification to be an PBX, and the called PBX of Chang and its association to called gateway server

for providing IP communication to the called telephone to read on the claimed determining according to the availability of a network component comprises determining according to the availability of a call mediator).

Regarding claim 14, Chang discloses sending a request for address translation to a gateway gatekeeper, the gateway gatekeeper references tables in a gateway database to determine the called gateway server, see [0098] and [0165]. In addition, Chang discloses that having a plurality of voice gateways each coupled to a respective PBX and to the IP network, see [0033]. Chang further discloses that called gateway server selects a telephone trunk to deliver the call to the called PBX. (Examiner interpreted the called server gateway being capable of selecting one PBX among a plurality of PBXs to read on the claimed gatekeeper is programmed to determine whether a call mediator associated with the network address is a member of a set of available call mediators).

Regarding claims 15-17, Chang discloses the fallback to PST network (PSTN) during a call depend on the configuration of the particular caller gateway network, e.g. PBX configuration and capability, CTI capabilities, additional hardware availability and voice channel capacity, see paragraph [0206]. Chang also discloses the "fall back" to the PST network is based on the IP packet network congestion, see paragraph [0046]. (Examiner interpreted the congested state of the IP network of Chang to read on the claimed determining according to the availability of a network component comprises determining according to the availability of a gatekeeper as in claim 15, a gateway as in claim 16 and a router as in claim 17, because the gatekeeper, gateways and router

all belong to the IP network of Chang and given the state of congestion of the IP network none of these elements would be available).

Regarding claim 18, Chang discloses the fallback to PST network (PSTN) during a call depend on voice channel capacity, see paragraph [0206]. (Claimed determining according to network resource availability criteria comprises determining according to the availability of a communication link).

Regarding claim 19, Chang discloses the fallback to PSTN. (Claimed routing the communication to the destination endpoint using at least a second circuit-switched network comprises routing the communication using the PSTN).

Regarding claim 43,

Chang discloses a computerized method for establishing a telephonic call from an origination endpoint to a destination endpoint the method comprising:

A voice gateway receiving telephone number, the voice gateway supporting ETN (Enterprise Telephone Numbering) (claimed PDP), a gateway gatekeeper that services requests for address translation received from a gatekeeper agent, see [0149] (Examiner interpreted the address translation received by the gatekeeper to correspond to the claimed receiving a destination telephone number at a gatekeeper in a packet switched network). In addition, Chang discloses an access code that specify a respective site within the enterprise, wherein telephones at other sites in the company may be dialed using an access code, commonly an "8", followed by a location code (typically 3 digits), followed by the extension, see paragraphs [0146]-[0148], (Claimed appending an site identifier to the PDP number that identifies the site of the destination



endpoint). Chang further discloses providing the capability to fallback to PST NETWORK during a VoIP call, a gateway server provides the capability to fallback to the PST NETWORK during setup of a call if the call cannot be connected through a called gateway server, see paragraph [0206]. (claimed determining whether to route the telephone call using the packet switched network or a circuit switched network, and based on the site identifier, establishing a connection to the destination endpoint over the circuit-switched network using the telephone number).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Yang, US 2003/0118006.

Regarding claim 8, Chang discloses a gateway server (claimed enterprise gatekeeper), the gateway server can automatically set up a call over the PST NETWORK between the caller and called party's desktop telephones based on the congestion in the packet network (claimed determined bandwidth criteria), see paragraph [0046].

However, Chang doesn't specify that determining bandwidth criteria comprises whether a number of call counts processed by gateway is above a specified threshold.

However, Yang discloses a switch routing traffic to either a circuit switched network or packet switched network based on bandwidth allocation, wherein the bandwidth is determined on call counts. See paragraph [0030].

Therefore, it would have been obvious to an ordinary person of skill in the art, at the time the invention was made to have the bandwidth congestion criteria of Chang depends on call count as described by Yang so that routing decision would be made on a more deterministic way. The advantage would be better utilization of Chang bandwidth in allocating available bandwidth in both IP network and PSTN networks

#### ***Response to Arguments***

4. Applicant's arguments with respect to claim 1-19 and 43 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

5. Claims 20-35, 37-42 are allowed.  
Claim 36 is objected to for minor informalities.

#### ***Conclusion***

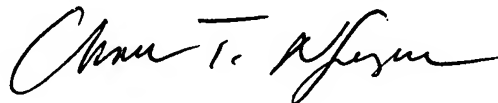
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: see PTO form-892

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED ELALLAM whose telephone number is (571) 272-3097. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, To Doris can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A. ELALLAM  
Examiner  
Art Unit 2616  
9/15/06



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600